

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

SEP 13 2013

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

LAWRENCE K. BAERMAN, CLERK
ALBANY

UNITED STATES OF AMERICA
Plaintiff

Case No.: 1:12-CR-579

v.

PETITION TO DISMISS

GLENN R. UNGER
Defendant

PETITION

Pursuant to the attached Affidavit in Response to Plaintiff's Indictment of December 19, 2012 ("Affidavit") which is incorporated herein in its entirety in reference, the Court is hereby moved by special appearance to dismiss Case No. 1:12-CR-579 and all charges filed therein and close the said Case pursuant to Plaintiff's failure to state a claim upon which relief can be granted, failure to exhaust its administrative remedy, failure to demonstrate a controversy, and failure to establish by a preponderance of the evidence that the Court possesses jurisdiction.

Careful review of the record reveals that Plaintiff has failed to exhibit a lien, contract, security interest or other obligation entitling it to relief, nor any evidence proving jurisdiction, nor evidence that Defendant was offered due process, administrative remedy. The Court is not obligated to decide what claims a plaintiff may or may not want to assert, and in this case Plaintiff has failed to assert any.

Pursuant to the above, the Court is obligated to forthwith dismiss with prejudice: (i) Case No. 1:12-CR579; (ii) Plaintiff's Indictment. This Court must close the said case, release Defendant from all distress, return to Defendant all property and possessions seized therefrom regardless of where situate, and expunge all United States records regardless of form respecting

the said case, the related investigation and Defendant's incarceration as a result thereof including, without limitation, all biometric, photographic, fingerprint and DNA/genetic records regardless of form or where situate.

Solemnly declared and affirmed This 7th day of September, 2013.

GLENN RICHARD UNGER ESTATE

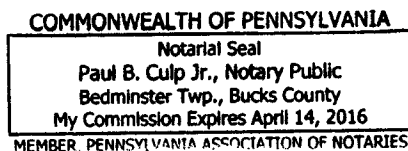
By: Glenn Richard Family Unger, Ex
GLENN RICHARD FAMILY UNGER EX
EXECUTOR

Solemnly affirmed and subscribed this 7th day of
September, 2013. WITNESS my hand and seal:

By: Paul B. Culp Jr.

Notary Public

Seal:



**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA
Plaintiff

Case No.: 1:12-CR-579

v.

GLENN R. UNGER
Defendant

AFFIDAVIT IN RESPONSE
TO INDICTMENT

AFFIDAVIT

This verified response by special appearance to Plaintiff's Indictment of December 19, 2012 ("Indictment") establishes a first hand record of facts by the only party possessing actual knowledge thereof, and without conceding jurisdiction. The facts established herein may not be rebutted by "information and belief," unverified statements or answers, or parties who want for first hand knowledge of that to which they are attempting to testify. This affidavit ("Affidavit") establishes as a fact that the unverified allegations purported in the Indictment are false, that the Indictment is fatally flawed, and that Plaintiff has failed to exhaust its administrative remedy, failed to state a claim upon which relief could be granted and failed to establish by a preponderance of the evidence that the Court possesses jurisdiction. In fact, Plaintiff has failed to play any evidence into the record which would permit the Court to claim jurisdiction, statements of counsel being non-evidentiary, and in this case false and inflammatory. Thus, as a matter of law, the Court is obligated to dismiss Case No. 1:12-CR-579 and release Defendant from all distress.

The undersigned (“Affiant”), being of competent age and mind, does hereby declared and solemnly affirm the preceding and following facts to be true, correct and complete:

A. Plaintiff’s failure to state a claim upon which relief can be granted.

1. Nowhere in the Indictment or Plaintiff’s other pleadings has Plaintiff stated a claim upon which can be granted. Plaintiff has failed to identify a lien security interest, contract, breach of contract or injured party which would obligate Defendant to perform. In fact, notwithstanding the Indictment purports a variety of alleged statutory violations, nowhere does Plaintiff state the underlying obligation by which Defendant is obligated to such obedience. Nor has Plaintiff attached evidence alleging the existence of such obligation such as a contract, pledge or instrument supported by the affidavits of competent parties testifying under oath to first hand knowledge of such obligation. Surely if such obligation has ever existed, Plaintiff would have exhibited the same on the record.
2. Affiant denies the existence of a claim by which Plaintiff may be granted relief from Defendant.
3. The Court is obligated to dismiss an action when a plaintiff fails to state a claim upon which relief can be granted. The Court is obligated to dismiss Case No. 1:12-CR-579 with prejudice.

B. Plaintiff’s failure to exhaust administrative remedy.

4. Nowhere in the Indictment or Plaintiff’s other pleadings does Plaintiff mention, cite or claim to have exhausted or even offered Defendant , an administrative remedy prior to filing this action.
5. Affiant denies such administrative remedy has been offered to Defendant, thus Defendant has been injured by denial of due process.
6. As only one form of action exists in the United States, the Court, adjudicating administrative law under Article I, is required to dismiss the action at hand with prejudice for want of due process as noted.

C. Lack of jurisdiction for want of claim and controversy.

7. Plaintiff is required to establish by a preponderance of the evidence that the Court possesses jurisdiction. Remarkably, Plaintiff has failed to provide the Court with any evidence whatsoever, let alone sufficient evidence to prove jurisdiction. Thus, based upon the Court's own records, the Court wants for jurisdiction.
8. Nowhere in the record, has Defendant conceded jurisdiction, general appearance of general deposit to the Court, and Affiant denies such concession has been made.
9. Pursuant to the facts established by this Affidavit. Plaintiff has failed to identify a controversy obligating the Defendant to perform.
10. Nowhere in this Indictment or other pleadings has Plaintiff established by preponderance of the evidence that the Defendant is an administrative agency, U.S. employee, corporation or corporate officer subject to a United States Court.
11. Wanting for claim, controversy or jurisdiction, the Court is obligated to dismiss the action at hand with prejudice.

D. Verified declaration of facts; denial of allegations.

12. Affiant does hereby deny and refute all allegations, charges and Counts in the Indictment, Counts 1 through 7 inclusive, pursuant to the following verified facts of which Affiant has first hand knowledge.
13. Affiant denies all allegations alleged in Count 1, denies obstructing and impeding, and intending to obstruct and impede, the Internal Revenue Service ("IRS"), denies making any false, fictitious and fraudulent claims against the United States, and denies knowingly signing the IRS Forms 1040 cited in parts a, c, d, e, f, g, and h, the IRS 1040 NR cited in part b, the IRS Forms 843 cited in parts i, j, k, l, and m, and the IRS Form 709 cited in part n.
14. Affiant denies all the allegations contained in Affidavit denies all allegations contained Counts 1 and 6, denies willfully attempting

to evade, or intending to evade, income tax and penalties owed to the United States, and denies falsely releasing or attempting to falsely release a federal tax lien, such lien having been previously discharged and satisfied according to records in the possession of the Secretary of the Treasury. Affiant does hereby authorize the release of such records to the Court.

15. Regarding Count 6 and otherwise, Affiant denies that Defendant owes or owed any income taxes to the United States or the IRS for the tax periods cited in this Indictment. Nowhere in the Indictment has Plaintiff established that IRS Forms 1099A, 1099C, 1099 OID, 1096 W2 and W4 are not gift tax returns for the reporting of Class 5 gift and estate taxes as established in IRS publication 6209, revision 2003. Therefore, and pursuant to Plaintiff's failure to exhibit evidence that Defendant is an administrative agency, corporation, corporate officer or U.S. employee per item No. 10 in this Affidavit, Plaintiff's allegation that Defendant evaded income taxes uttered in the Indictment and open Court on January 3, 2013 is false.
16. Affiant denies all allegations alleged in Counts, 2, 3, 4, and 5, denies making false, fictitious, and fraudulent claims against the United States, and denies knowingly signing the various IRS Forms respectively cited therein pursuant to facts established in paragraphs 13 and 14 of this Affidavit.
17. Affiant denies all allegations alleged in Count 7. Affiant specifically denies that "defendant GLENN R. UNGER" as it has been styled in Count 7, signed or had capacity to sign the instrument cited by Plaintiff. Affiant denies any such "signature." Plaintiff is in possession of exculpatory evidences proving that the said instrument was not issued by Defendant. Affiant denies knowingly, passing, lettering, presenting or causing to be passed, uttered and presented, and with fraudulent intent, a false and fictitious instrument, and certainly an instrument purporting be issued under the authority of the United States. Nowhere does the instrument exhibited by Plaintiff claim situs in the laws of the United States. Plaintiff appears to have misrepresented to the Court the definitions of a security and other financial instrument such as monetary and negotiable instruments,
18. Plaintiff has failed to counter previous United States stipulations to the Court that the Internal Revenue Service is not a United States agency.

19. Regarding the issues at hand, Affiant categorically denies having intended at any time to obstruct or impede the Internal Revenue Service, break any law, evade any tax, injure the United States, impede, impair or obstruct the payment of any tax, or advocate any of the foregoing. On the contrary, Plaintiff is in possession of exculpatory evidence that Affiant has categorically and repeatedly advocating pay all taxes that are lawfully owed.
20. Pursuant to the foregoing, the Court is obligated to forthwith: dismiss Case No. 1:12-CR-579 with prejudice, close the case, expunge all records related thereto, settle and close all accounts, release all distress against Defendant, and return to Defendant all of Defendant's property and possessions seized therefrom on previous Order(s) of the Court.

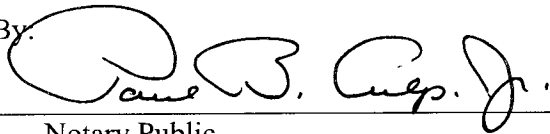
Solemnly declared and affirmed this 7th day of September, 2013.

GLENN RICHARD UNGER ESTATE

By: Glenn Richard Family Unger, Ex
GLENN RICHARD FAMILY UNGER EX
Executor

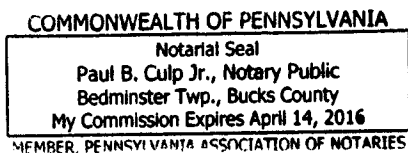
Solemnly affirmed and subscribed this 7th day of
September, 2013. WITNESS my hand and seal:

By:



Notary Public

Seal:



UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA
Plaintiff

Case No.: 1:12-CR-579

v.

NOTICE OF ERROR

GLENN R. UNGER
Defendant

NOTICE

By special appearance, please take notice that a certain Notice and decree claiming habeas corpus at superior jurisdiction to preserve the Holy temple recorded on the docket of UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK Case No. 1:12-CR-579 on or about April 19, 2013 (ECF Doc. 19) was recorded thereon in error, said item neither naming the said Court nor being intended nor captioned for delivery thereto.

Please take further notice that a certain Endorsed Order recorded on the above-noted docket on or about June 26, 2013 (ECF Doc. 29) was recorded thereon in error, the Court record wanting for evidence of any habeas corpus petition issued by the "Defendant Unger" specified in the said Order.

Pursuant to the above, the said erroneous recordings should be withdrawn and the said docket corrected forthwith.

Solemnly declared and affirmed this 7th day of September, 2013.

GLENN RICHARD UNGER ESTATE

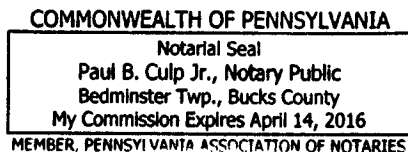
By: Glenn Richard Family Unger, Ex
GLENN RICHARD FAMILY UNGER EX
Executor

Solemnly affirmed and subscribed this 7th day of
September, 2013. WITNESS my hand and seal:

By: [Signature]

Notary Public

Seal:



**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA
Plaintiff

Case No.: 1:12-CR-579

v.

ORDER TO DISMISS

GLENN R. UNGER
Defendant

ORDER

AND NOW, this the ____ day of _____, 2013, having considered the Defendant's motion to dismiss and accompanying memorandum of law, and any response thereto, it is hereby **ORDERED** and **DECREED** that the Defendant's motion to dismiss is **GRANTED**. The above-captioned matter and Plaintiff's Indictment dated December 19, 2012 and all charges alleged therein against Defendant are hereby **DISMISSED** with prejudice; and it is

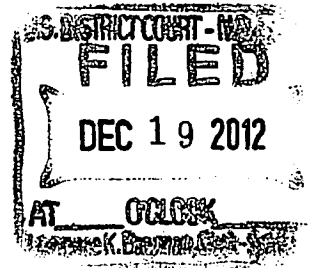
FURTHER ORDERED that all United States records pertaining to Case No. 1:12-CR-579 or to incarceration of Defendant as a result thereof shall be expunged forthwith regardless of form or where situate including, without limitation, all biometric, photographic, fingerprint and DNA/genetic records; and it is

FURTHER ORDERED that all of Defendant's property and possessions currently held by the United States or its agents pursuant to the Order(s) or this Court shall be returned to Defendant in total, in as close a condition as when seized, within fourteen (14) days after entry of this Order by the Clerk of Court;

The Clerk of Court shall mark this case as closed.

IT IS SO ORDERED.

Thomas J. McAvoy, USDJ



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

GLENN R. UNGER,

Defendant.

Criminal Action No.

12-CR-579 (TJM)

INDICTMENT

Counties: Saratoga and
Albany

VIOLATIONS:

26 U.S.C. §7212(a) (1 Count)

18 U.S.C. §287 (4 Counts)

26 U.S.C. §7201 (1 Count)

18 U.S.C. §514(a)(2) (1 Count)

THE GRAND JURY CHARGES:

COUNT 1

[Obstructing and Impeding the IRS]

Beginning in at least 2007 and continuing through 2011, in Saratoga County, in the Northern District of New York and elsewhere, defendant **GLENN R. UNGER** corruptly obstructed and impeded and endeavored to obstruct and impede the due administration of federal internal revenue laws contained in Title 26 of the United States Code by, among other things:

a. On or about December 28, 2007, the defendant filed and caused to be filed with the Internal Revenue Service a false and fraudulent claim against the United States for payment of a refund of taxes in the amount of \$238,406.47, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a United States Individual Income Tax Return, Form 1040, for tax year 2004;

b. On or about December 31, 2007, the defendant filed and caused to be filed with the

Internal Revenue Service a false and fraudulent claim against the United States for payment of a refund of taxes in the amount of \$200,000.00, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a United States Nonresident Alien Income Tax Return, Form 1040NR, for tax year 2007;

c. On or about January 2, 2008, the defendant filed and caused to be filed with the Internal Revenue Service a false and fraudulent claim against the United States for payment of a refund of taxes in the amount of \$112,546.53, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a United States Individual Income Tax Return, Form 1040, for tax year 2005;

d. On or about January 7, 2008, the defendant filed and caused to be filed with the Internal Revenue Service a false and fraudulent claim against the United States for payment of a refund of taxes in the amount of \$2,729.58, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a United States Individual Income Tax Return, Form 1040, for tax year 2006;

e. On or about February 25, 2008, the defendant filed and caused to be filed with the Internal Revenue Service a false and fraudulent claim against the United States for payment of a refund of taxes in the amount of \$65,121.20, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a United States Individual Income Tax Return, Form 1040, for tax year 2006;

f. On or about March 21, 2008, the defendant filed and caused to be filed with the Internal Revenue Service a false and fraudulent claim against the United States for payment of a refund of taxes in the amount of \$35,000,150.00, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a United States Individual Income

Tax Return, Form 1040, for tax year 2007;

g. On or about March 21, 2008, the defendant filed and caused to be filed with the Internal Revenue Service a false and fraudulent claim against the United States for payment of a refund of taxes in the amount of \$266,847.92, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a United States Individual Income Tax Return, Form 1040, for tax year 2007;

h. On or about July 8, 2008, the defendant filed and caused to be filed with the Internal Revenue Service a false and fraudulent claim against the United States for payment of a refund of taxes in the amount of \$285,973.90, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a United States Individual Income Tax Return, Form 1040, for tax year 2008;

i. On or about April 20, 2011, the defendant filed and caused to be filed with the Internal Revenue Service a false and fraudulent claim against the United States for a refund of payment in the amount of \$5,936.16, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a Claim for Refund and Request for Abatement, Form 843, for tax period 2004;

j. On or about April 20, 2011, the defendant filed and caused to be filed with the Internal Revenue Service a false and fraudulent claim against the United States for a refund of payment in the amount of \$5,761.59, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a Claim for Refund and Request for Abatement, Form 843, for tax period 2005;

k. On or about April 20, 2011, the defendant filed and caused to be filed with the Internal Revenue Service a false and fraudulent claim against the United States for a refund of

payment in the amount of \$17,235.28, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a Claim for Refund and Request for Abatement, Form 843, for tax period 2006;

l. On or about April 20, 2011, the defendant filed and caused to be filed with the Internal Revenue Service a false and fraudulent claim against the United States for a refund of payment in the amount of \$17,153.08, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a Claim for Refund and Request for Abatement, Form 843, for tax period 2007;

m. On or about April 20, 2011, the defendant filed and caused to be filed with the Internal Revenue Service a false and fraudulent claim against the United States for a refund of payment in the amount of \$5,584.50, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a Claim for Refund and Request for Abatement, Form 843, for tax period 2008;

n. On or about April 20, 2011, the defendant filed and caused to be filed with the Internal Revenue Service a false and fraudulent claim against the United States for a refund of payment in the amount of \$90,096.11, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a United States Gift (and Generation-Skipping Transfer) Tax Return, Form 709, for gifts made during calendar year 2010; and

o. On or about June 17, 2011, the defendant submitted for filing with the Saratoga County, New York, Clerk's Office, false documentation, that being a "Presentment by Notary Public of Certificate for Filing," attempting to release a federal tax lien in the amount of \$116,410.43 filed on August 4, 2009, by the Internal Revenue Service against the defendant regarding his individual tax liabilities for tax years 2005 and 2006, and his frivolous filing penalties for calendar years 2004

through 2008.

All in violation of Title 26, United States Code, Section 7212(a).

COUNT 2
[False claim for refund]

On or about December 28, 2007, in the Northern District of New York, defendant **GLENN R. UNGER** knowingly made and presented to the Internal Revenue Service, an agency of the United States Department of the Treasury, a claim against the United States for payment of a refund of taxes in the amount of \$238,406.47, which he then and there knew to be false, fictitious, and fraudulent, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a United States Individual Income Tax Return, Form 1040, for tax year 2004.

In violation of Title 18, United States Code, Section 287.

COUNT 3
[False claim for refund]

On or about December 31, 2007, in the Northern District of New York, defendant **GLENN R. UNGER** knowingly made and presented to the Internal Revenue Service, an agency of the United States Department of the Treasury, a claim against the United States for payment of a refund of taxes in the amount of \$200,000.00, which he then and there knew to be false, fictitious, and fraudulent, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a United States Nonresident Alien Income Tax Return, Form 1040NR, for tax year 2007.

In violation of Title 18, United States Code, Section 287.

COUNT 4
[False claim for refund]

On or about January 7, 2008, in the Northern District of New York, defendant **GLENN R.**

UNGER knowingly made and presented to the Internal Revenue Service, an agency of the United States Department of the Treasury, a claim against the United States for payment of a refund of taxes in the amount of \$2,729.58, which he then and there knew to be false, fictitious, and fraudulent, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a United States Individual Income Tax Return, Form 1040, for tax year 2006.

In violation of Title 18, United States Code, Section 287.

COUNT 5
[False claim for refund]

On or about July 8, 2008, in the Northern District of New York, defendant **GLENN R. UNGER** knowingly made and presented to the Internal Revenue Service, an agency of the United States Department of the Treasury, a claim against the United States for payment of a refund of taxes in the amount of \$285,973.90, which he then and there knew to be false, fictitious, and fraudulent, by preparing and causing to be prepared and mailing and causing to be mailed to the Internal Revenue Service a United States Individual Income Tax Return, Form 1040, for tax year 2008.

In violation of Title 18, United States Code, Section 287.

COUNT 6
[Tax Evasion]

On or about June 17, 2011, in Saratoga County, in the Northern District of New York, defendant **GLENN R. UNGER** did willfully attempt to evade income tax and penalties due and owing by him to the United States for the calendar years 2004 through 2008 by submitting for filing with the Saratoga County, New York, Clerk's Office false documentation, that being a "Presentment by Notary Public of Certificate for Filing," to release a federal tax lien filed on August 4, 2009, by the Internal Revenue Service against the defendant regarding his individual tax liabilities for tax years 2005 and 2006, and his frivolous filing penalties for calendar years 2004 through 2008, in the

amount of \$116,410.43.

In violation of Title 26, United States Code, Section 7201.

COUNT 7
[Fictitious Obligations]

On or about January 18, 2008, in Albany County, in the Northern District of New York within the United States, defendant **GLENN R. UNGER**, with the intent to defraud, did knowingly pass, utter, present, and cause to be passed, uttered, and presented, and with fraudulent intent possessed a false and fictitious instrument, document, and other item, namely an instrument titled "Secured Promissory Note" in the amount of \$200,000.00 appearing, representing, purporting and contriving, through scheme and artifice, to be an actual security and other financial instrument issued under the authority of the United States.

In violation of Title 18, United States Code, Section 514(a)(2).


A TRUE BILL, *Name Redacted

Dated: December 19, 2012


FOREPERSON

RICHARD S. HARTUNIAN
United States Attorney
Northern District of New York

By:


Ransom P. Reynolds
Assistant U.S. Attorney

Document No.: 20130910-SF25-2M

PERFORMANCE BOND
(See instructions on reverse)

DATE BOND EXECUTED (Must be same or later than date of contract)

DEC 19 2012

OMB Number: 9000-0045
Expiration Date: 6/30/2016

Public reporting burden for this collection of information is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (MVR), Federal Acquisition Policy Division, GSA, Washington, DC 20405

PRINCIPAL (Legal name and business address)		TYPE OF ORGANIZATION ("X" one)	
GLENN R. UNGER, Contract (Case) No: 1:12-cr-00579-TJM C/ o United States District Court, Northern District of New York James T. Foley Courthouse, Suite 509 445 Broadway Albany, New York 12207 United States of America		<input checked="" type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> CORPORATION	
SURETY(IES) (Name(s) and business address(es))		STATE OF INCORPORATION United States of America	
DIAMOND SETTLEMENT TRUST C/ o PO Box 1774 West Chester, Pennsylvania 19380 United States of America		PENAL SUM OF BOND	
MILLION(S)	THOUSANDS	HUNDRED(S)	CENTS
2	0	0.00	0.00
CONTRACT DATE		CONTRACT NO.	
DEC 19 2012		1:12-cr-00579-TJM	

OBLIGATION

We, the Principal and Surety (ies), are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS

The Principal has entered into the contract identified above.

THEREFORE

The above obligation is void if the Principal-

(a)(1) Performs and fulfills all the undertaking, covenants, terms, conditions, and agreements of the contract during the original term of the contract and any extensions thereof that are granted by the Government, with or without notice of the Surety(ies) and during the life of any guaranty required under the contract, and (2) performs and fulfills all the undertakings, covenants, terms conditions, and agreements of any and all duly authorized modifications of the contract that hereafter are made. Notice of those modifications to the Surety(ies) are waived.

(b) Pays to the Government the full amount of the taxes imposed by the Government, if the said contracts is subject to the Miller Act, (40 U.S.C. 270a-270e), which are collected, deducted, or withheld from wages paid by the Principal in carrying out the construction contract with respect to which this bond is furnished.

WITNESS

The Principal and Surety(ies) executed this performance bond and affixed their seals on the above date.

ACCEPTABLE CERTIFICATIONS:
Financial Institution's Official Seal or Stamp
(such as Signature Guaranteed or Medallion Stamp).

PRINCIPAL

SIGNATURE(S)	1. By: /s/ Glenn R. Unger (Seal)	2. (Seal)	3. (Seal)	Corporate Seal
NAME(S) & TITLE(S) (Typed)	1. GLENN R. UNGER PRINCIPAL	2.	3.	

INDIVIDUAL SURETY(IES)

SIGNATURE(S)	1. By: /s/ Administrator Michael Norley, Trustee (Seal)	2. (Seal)
NAME(S) (Typed)	1. DIAMOND SETTLEMENT TRUST	2.

CORPORATE SURETY(IES)

SURETY A	NAME & ADDRESS	STATE OF INC.	LIABILITY LIMIT (\$)	Corporate Seal
	SIGNATURE(S)	1.	2.	
	NAME(S) & TITLE(S) (Typed)	1.	2.	

AFFIDAVIT OF INDIVIDUAL SURETY*(See instructions on reverse)*

OMB Number: 9000-0001

Expiration Date: 11/30/2014

Public reporting burden for this collection of information is estimated to average 0.4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Regulatory Secretariat (VPR), Office of Acquisition Policy, GSA, Washington, DC 20405.

STATE OF
PENNSYLVANIACOUNTY OF
DELAWARE

SS. Under the Laws of the United States of America

I, the undersigned, being duly sworn, depose and say that I am: (1) the surety to the attached bond(s); (2) a citizen of the United States; and of full age and legally competent. I also depose and say that, concerning any stocks or bonds included in the assets listed below, that there are no restrictions on the resale of these securities pursuant to the registration provisions of Section 5 of the Securities Act of 1933. I recognize that statements contained herein concern a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious or fraudulent statement may render the maker subject to prosecution under Title 18, United States Code Sections 1001 and 494. This affidavit is made to induce the United States of America to accept me as surety on the attached bond.

1. NAME (First, Middle, Last) (Type or Print)

Administrator Michael Norley (as Pledging Officer)

2. HOME ADDRESS (Number, Street, City, State, ZIP Code)

c/o PO Box 1774, West Chester, PA 19380 USA

3. TYPE AND DURATION OF OCCUPATION

Trustee Under Declaration of Trust & Agreement

4. NAME AND ADDRESS OF EMPLOYER (If Self-employed, so State)

DIAMOND SETTLEMENT TRUST
EIN: 46-68235395. NAME AND ADDRESS OF INDIVIDUAL SURETY BROKER USED
(Number, Street, City, State, ZIP Code)The Clerk of Court for the US District Court Northern District of New York
U.S. Courthouse & Federal Building, 445 Broadway, Room 509
Albany, New York 12207 USA

6. TELEPHONE NUMBER

HOME - N / A

BUSINESS - (518) 257-1800

7. THE FOLLOWING IS A TRUE REPRESENTATION OF THE ASSETS I HAVE PLEDGED TO THE UNITED STATES IN SUPPORT OF THE ATTACHED BOND:

(a) Real estate (Include a legal description, street address and other identifying description; the market value; attach supporting certified documents including recorded lien; evidence of title and the current tax assessment of the property. For market value approach, also provide a current appraisal.)

Not Applicable

(b) Assets other than real estate (describe the assets, the details of the escrow account, and attach certified evidence thereof).

(1). Securities Account No: 128323723 / Book-entry Account Notation No: E15757475

NOTE: Government securities held in book entry form at the Federal Reserve Bank of Richmond, 5th District
(Participant's Administrative Reserve Bank, see Federal Reserve Banks Operating Circular No.7 Sec. 4.1)

8. IDENTIFY ALL MORTGAGES, LIENS, JUDGEMENTS, OR ANY OTHER ENCUMBRANCES INVOLVING SUBJECT ASSETS INCLUDING REAL ESTATE TAXES DUE AND PAYABLE.

Refer to UCC File No: 201307230417092, on record at the NYS Department of State Uniform Commercial Code Unit

Refer to Contract (Case) No: 1:12-cr-00579-TJM

9. IDENTIFY ALL BONDS, INCLUDING BID GUARANTEES, FOR WHICH THE SUBJECT ASSETS HAVE BEEN PLEDGED WITHIN 3 YEARS PRIOR TO THE DATE OF EXECUTION OF THIS AFFIDAVIT.

See attached hereto: Performance Bond (SF 25), Penal Sum of Bond \$2,000,000.00.

DOCUMENTATION OF THE PLEDGED ASSET MUST BE ATTACHED.

10. SIGNATURE

Michael Norley

11. BOND AND CONTRACT TO WHICH THIS AFFIDAVIT RELATES (Where Appropriate)

Bond: Performance Bond (SF 25)
Contract No: 1:12-cr-00579-TJM**12. SUBSCRIBED AND SWORN TO BEFORE ME AS FOLLOWS:**

a. DATE OATH ADMINISTERED

MONTH DAY YEAR
09 10 2013

b. CITY AND STATE (Or other jurisdiction)

Newtown Square, PA

c. NAME AND TITLE OF OFFICIAL ADMINISTERING OATH
(Type or print)Kathleen E C Reed
Premier Banker, AUP

d. SIGNATURE

Kathleen E C Reed
Commonwealth of Pennsylvaniae. MY COMMISSION
EXPIRES

June 18, 2014

Official
Seal

AUTHORIZED FOR LOCAL REPRODUCTION
Previous edition is not usable

STANDARD FORM 28 (REV. 6/2003)
Prescribed by GSA-FAR (48 CFR) 53.228(e)

NOTARIAL SEAL
Kathleen E C Reed, Notary Public
Newtown Township, Delaware County
My Commission Expires June 18, 2014

434734

2013 Sep 10 PM06:34

UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional) Glen Collins, Assistant to the Trustee
B. SEND ACKNOWLEDGMENT TO: (Name and Address) DIAMOND SETTLEMENT TRUST PO Box 1774 West Chester, PA 19380, USA

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE # 201307230417092 Filedate: 23-JUL-13

1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS.

2. ☐ TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured Party authorizing this Termination Statement.3. ☐ CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.4. ☐ ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c and also give name of assignor in item 9.5. AMENDMENT (PARTY INFORMATION): This Amendment affects ☐ Debtor or ☐ Secured Party of record. Check only one of these two boxes.

Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

☐ CHANGE name and/or address: Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c. ☐ DELETE name: Give record name to be deleted in item 6a or 6b. ☐ ADD name: Complete item 7a or 7b, and also item 7c, also complete items 7d-7g (if applicable).

6. CURRENT RECORD INFORMATION:

6a. ORGANIZATION'S NAME

OR 6b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7. CHANGED (NEW) OR ADDED INFORMATION:

7a. ORGANIZATION'S NAME

OR 7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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ADD'L INFO RE
ORGANIZATION
DEBTOR

7e. TYPE OF ORGANIZATION

7f. JURISDICTION OF ORGANIZATION

8. AMENDMENT (COLLATERAL CHANGE): check only one box.

Describe collateral ☐ deleted or ☒ added, or give entire ☐ restated collateral description, or describe collateral ☐ assigned.

(a) Performance Bond, Document No: 20130910-SF25-2M, Penal Sum Amount \$2,000,000.00

(b) Affidavit of Individual Surety (for assets pledged as collateral to secure Bond), Document No: 20130910-SF28-2M

Bond issued as collateral deposit of "good faith money," Intended to secure Contract No: 1:12-CR-00579-TJM

This Financing Statement is effective 12/19/2012 continuing until a termination is filed.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here ☐ and enter name of DEBTOR authorizing this Amendment.

9a. ORGANIZATION'S NAME DIAMOND SETTLEMENT TRUST

OR 9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
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10. OPTIONAL FILER REFERENCE DATA [A SECURITY UNDER RULE 65.1.] BY: /S/ ADMINISTRATOR MICHAEL NORLEY, TRUSTEE

FILING OFFICE COPY — NATIONAL UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 05/22/02)

Filing Number-201309108365907

DIAMOND SETTLEMENT TRUST

c/o Administrator Michael Norley, Trustee

P.O. Box 1774

West Chester, Pennsylvania 19380

CERTIFICATE OF SERVICE BY CERTIFIED MAIL

State of Pennsylvania)

) **SS:**

County of Delaware)

I/we, **DIAMOND SETTLEMENT TRUST**, hereby certify that I/we am/are the Surety(s) herein and served the following documents:

- (1) Copy of this Certificate of Service
- (2) Performance Bond; Penal Sum Amount \$2,000,000.00. (In lawful money) – sent only to Clerk of Court in accordance with 28 CFR 479 and related statutes re: securities
- (3) Affidavit of Individual Surety (For assets pledged as collateral to secure Bond) – sent only to Clerk of Court in accordance with 28 CFR 479 and related statutes re: securities
- (4) Copy of UCC-3 Listing added assets
- (5) Motion for Irrevocable Appointment to the Clerk of Court as its Agent, Rule 65.1.
- (6) Petition to Dismiss
- (7) Affidavit in Response to Indictment
- (8) Notice of Error
- (9) Order to Dismiss
- (10) Copy of Indictment, Action No. 1:12-cr-00579-TJM

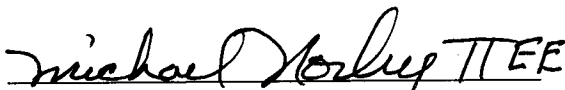
On **United States District Court for the Northern District of New York**
c/o the Office of the Clerk of Court
At: James T. Foley Courthouse, Suite 509
445 Broadway
Albany, New York 12207
United States of America

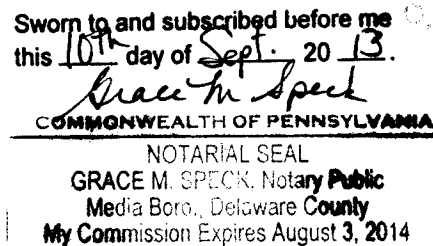
Copy sent to opposing counsel as noted above, and address shown here:

Ransom P. Reynolds, III
c/o Office of the United States Attorney
P.O. Box 7198
100 South Clinton Street
Syracuse, NY 13261

I certify that the foregoing is true and correct and said documents were placed, postage prepaid via Certified Mail, with the United States Postal Service for delivery as noted above.

Done this day 11th of September, 2013


Administrator Michael Norley
As its Trustee



SOFTWIRE

First Class Mail

United States District Court
for the Northern District of New York
c/o the Office of the Clerk of Court
James T. Foley Courthouse, Suite 509
445 Broadway
Albany, New York 12207
United States of America

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